

§ 1626.8

29 CFR Ch. XIV (7-1-97 Edition)

(2) Written charges filed in person: Date of receipt;

(3) Oral charges filed in person or by telephone, as reduced to writing: Date of oral communication received by Commission.

§ 1626.8 Contents of charge; amendment of charge.

(a) In addition to the requirements of § 1626.6, each charge should contain the following:

(1) The full name, address and telephone number of the person making the charge;

(2) The full name and address of the person against whom the charge is made;

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices;

(4) If known, the approximate number of employees of the prospective defendant employer or members of the prospective defendant labor organization.

(5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is sufficient when the Commission receives from the person making the charge either a written statement or information reduced to writing by the Commission that conforms to the requirements of § 1626.6.

(c) A charge may be amended to clarify or amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original charge will relate back to the date the charge was first received. A charge that has been so amended shall not again be referred to the appropriate State agency.

§ 1626.9 Referral to and from State agencies; referral States.

(a) The Commission may refer all charges to any appropriate State agen-

cy and will encourage State agencies to refer charges to the Commission in order to assure that the prerequisites for private law suits, as set out in section 14(b) of the Act, are met. Charges so referred shall be deemed to have been filed with the Commission in accordance with the specifications contained in § 1626.7(b). The Commission may process any charge at any time, notwithstanding provisions for referral to and from appropriate State agencies.

(b) States to which all ADEA charges may be referred: Alaska, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Puerto Rico, South Carolina, Utah, Virgin Islands, West Virginia, and Wisconsin.

(c) States to which only specified classes of charges are referred: Arizona, Colorado, Kansas, Maine, Ohio, Rhode Island, South Dakota, and Washington.

§ 1626.10 Agreements with State or local fair employment practices agencies.

(a) Pursuant to sections 6 and 7 of the ADEA and section 11(b) of the FLSA, the Commission may enter into agreements with State or local fair employment practices agencies to cooperate in enforcement, technical assistance, research, or public informational activities, and may engage the services of such agencies in processing charges assuring the safeguard of the Federal rights of aggrieved persons.

(b) The Commission may enter into agreements with State or local agencies which authorize such agencies to receive charges and complaints pursuant to § 1626.5 and in accordance with the specifications contained in §§ 1626.7 and 1626.8.

(c) When a worksharing agreement with a State agency is in effect, the State agency will act on certain charges and the Commission will promptly process charges which the State agency does not pursue. Charges received by one agency under the

agreement shall be deemed received by the other agency for purposes of § 1626.7

§ 1626.11 Notice of charge.

Upon receipt of a charge, the Commission shall promptly notify the respondent that a charge has been filed.

§ 1626.12 Conciliation efforts pursuant to section 7(d) of the Act.

Upon receipt of a charge, the Commission shall promptly attempt to eliminate any alleged unlawful practice by informal methods of conciliation, conference and persuasion. Upon failure of such conciliation the Commission will notify the charging party. Such notification enables the charging party or any person aggrieved by the subject matter of the charge to commence action to enforce their rights without waiting for the lapse of 60 days.

§ 1626.13 Withdrawal of charge.

Charging parties may request withdrawal of a charge. Because the Commission has independent investigative authority, see § 1626.4, it may continue any investigation and may secure relief for all affected persons notwithstanding a request by a charging party to withdraw a charge.

§ 1626.14 Right to inspect or copy data.

A person who submits data or evidence to the Commission may retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that a witness may for good cause be limited to inspection of the official transcript of his or her testimony.

§ 1626.15 Commission enforcement.

(a) As provided in sections 9, 11, 16 and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 209, 211, 216 and 217) (FLSA) and sections 6 and 7 of this Act, the Commission and its authorized representatives may (1) investigate and gather data; (2) enter and inspect establishments and records and make transcripts thereof; (3) interview employees; (4) impose on persons subject to the Act appropriate record-keeping and reporting requirements; (5) advise employers, employment agencies and labor organizations with re-

gard to their obligations under the Act and any changes necessary in their policies, practices and procedures to assure compliance with the Act; (6) subpoena witnesses and require the production of documents and other evidence; (7) supervise the payment of amounts owing pursuant to section 16(c) of the FLSA, and (8) institute action under section 16(c) or section 17 of the FLSA or both to obtain appropriate relief.

(b) Whenever the Commission has a reasonable basis to conclude that a violation of the Act has occurred or will occur, it may commence conciliation under section 7(b) of the Act. The date of issuance of written notice to the respondent of the Commission's intent to begin or continue conciliation shall determine when the statute of limitations is tolled pursuant to section 7(e)(2) of the Act. Such notice will ordinarily be issued in the form of a letter of violation; provided, however, that failure to issue a written violation letter shall in no instance be construed as a finding of no violation. The Commission will ordinarily notify the respondent and aggrieved persons of its determination. In the process of conducting any investigation or conciliation under this Act, the identity of persons who have provided information in confidence shall not be disclosed except in accordance with § 1626.4. When the written notice prescribed above is issued, the statute of limitations shall be tolled for a period of one year unless a conciliation agreement is obtained earlier. The tolling period pursuant to section 7(e)(2) is applicable to both Commission and private party litigation.

(c) Any agreement reached as a result of efforts undertaken pursuant to this section shall, as far as practicable, require the respondent to eliminate the unlawful practice(s) and provide appropriate affirmative relief. Such agreement shall be reduced to writing and will ordinarily be signed by the Commission's delegated representative, the respondent, and the charging party, if any. A copy of the signed agreement shall be sent to all the signatories thereto.

(d) Upon the failure of informal conciliation, conference and persuasion